



NCN:

Case Reference: EA/ 2022/0377

**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
INFORMATION RIGHTS**

Heard: by determination on the papers

Heard on: 18 January 2023

Decision given on: 18 January 2023

Before:  
Judge Alison McKenna

**IAN BELCHAMBER**

**Appellant**

**- and -**

**THE INFORMATION COMMISSIONER**

**Respondent**

**DECISION**

**This appeal is struck out under rule 8 (3) (c) as having no reasonable prospect of success**

## REASONS

1. The Respondent's Strike Out Application dated 8 December 2022 is allowed for the following reasons.
2. The Information Commissioner published a Decision Notice on 10 November 2022 which found that the public authority had provided the Appellant with the information held within the scope of his request. The Appellant filed a Notice of Appeal dated 11 November 2022 and provided grounds of appeal dated 17 November 2022.
3. On 8 December 2022, the Information Commissioner, in filing its Response to the appeal, applied for a strike out under rule 8 (3)(c) of the Tribunal's rules on the basis that the appeal had no reasonable prospects of success.
4. The Appellant requested information to support a public statement made by the public authority. The Decision Notice found that the public authority had provided this information. The Appellant's Grounds of Appeal are that the information provided is, in his opinion, factually incorrect, so there must be more information held.
5. The Appellant was invited to make submissions in response to a proposed strike out, as required by rule 8 (4). He appears to have misunderstood this to be an adverse decision and asks for it to be withdrawn or he will appeal to the Upper Tribunal. However, this was an opportunity for him to put his case forward against the strike out proposed by the Information Commissioner, and he did so on 20 December, amplifying his grounds of appeal and taking issue with the Information Commissioner's Response. It is clear that he does not accept he has received all the information he requested because he does not accept the factual accuracy of what he has been told.
6. I have considered the Upper Tribunal's decision in *HMRC v Fairford Group (in liquidation) and Fairford Partnership Limited (in liquidation)* [2014] UKUT 0329 (TCC), in which it is stated at [41] that

*...an application to strike out in the FTT under rule 8 (3) (c) should be considered in a similar way to an application under CPR 3.4 in civil proceedings (whilst recognising that there is no equivalent jurisdiction in the First-tier to summary judgement under Part 24). The Tribunal must consider whether there is a realistic, as opposed to a fanciful (in the sense of it being entirely without substance) prospect of succeeding on the issue at a full hearing...The Tribunal must avoid conducting a "mini-trial". As Lord Hope observed in Three Rivers the strike out procedure is to deal with cases that are not fit for a full hearing at all.*
7. Applying this approach, I have considered both parties' representations and concluded that this is a case which may be described as 'not fit for a full hearing'. This is because the grounds of appeal do not engage with the Tribunal's jurisdiction under s. 57 FOIA, which is to consider whether the Decision Notice is wrong in law or involves an inappropriate exercise of discretion. The submissions are based on a challenge to the factual accuracy of the information provided, which the Tribunal is not in a position to assess.

8. It does not seem to me that any Tribunal properly directed could allow this appeal. In all the circumstances, I have concluded that this appeal should be struck out as having no reasonable prospects of success. I direct accordingly.

**(Signed)**

**Dated: 18 January 2023**

**Judge Alison McKenna**

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